



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

██████████
Docket No: 6628-21
6919-14
Ref: Signature Date

████████████████████
████████████████████
████████████████████

Dear ██████████:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although you did not file your application in a timely manner, the statute of limitations was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 18 February 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). The Board also considered the advisory opinion (AO) furnished by a qualified mental health provider which was previously provided to you.

You served honorably during your first enlistment in the Navy from 16 February 1983 to 9 May 1988. During your first enlistment you received three nonjudicial punishments (NJP). You reenlisted on 10 May 1988. On 11 December 1990, you received your first NJP during your second enlistment for a two-hour period of unauthorized absence (UA), and for two specifications of assault for punching a male and female Sailor in the face in violation of Articles 86 and 128, Uniform Code of Military Justice (UCMJ). You received a second NJP on 6 February 1991 for a 20-hour period of UA in violation of Article 86, UCMJ. On 29 March 1991, you received a third NJP for dereliction in the performance of duties in violation of Article 92, UCMJ. Your final NJP during your second enlistment occurred on 25 June 1991 for two specifications of UA for one day

and eighty-eight days, assault for hitting another Sailor in the mouth and face, and incapacitation for the performance of duties due to overindulgence of intoxicating liquor in violation of Articles 86, 128, and 134, UCMJ. On 26 June 1991, you were notified of administrative separation processing by reason of misconduct due to a pattern of misconduct. You waived your procedural rights, did not consult with counsel, nor did you request an administrative discharge board (ADB) to review your case. You entered into a sixty-four day period of UA from 24 July 1991 to 27 September 1991. On 31 October 1991, you were discharged with an other than honorable characterization of service. You were previously denied an upgrade to your characterization of service by this Board on 18 June 2015.

You contend that you were wrongfully diagnosed after a traumatic explosion on your last ship. Your supporting documentation indicates that while serving as petty officer in charge of the electrical group controller, the boiler blew up near your face. You further contend you developed PTSD, did not receive help, and the PTSD caused the occurrences that led to your discharge.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your contentions noted above, desire to upgrade your discharge, and post-service accomplishments. In addition, the Board considered medical evidence that documents your motor vehicle accident in May 1989, your alcohol dependency diagnosis in July 1991, and personality disorder diagnosis in July 1991. The Board also relied on the AO in making its determination. The AO noted that you did not provide sufficient clarifying information to provide enough markers to establish an onset and development of PTSD symptoms or identify a nexus with your misconduct. Consequently, the AO concluded that although you do carry a post-service diagnosis of PTSD, the preponderance of available evidence did not support your in-service misconduct could be mitigated by PTSD. In particular, the Board noted that two of the NJPs you received during your first enlistment occurred prior to the boiler explosion incident; however, the Board did not consider the underlying misconduct in making its determination because they occurred during a period of honorable service. Based upon this review, the Board concluded that the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board determined that your history of misconduct, as evidenced by your four NJPs and subsequent additional periods of UA during your second enlistment, outweighed these mitigating factors. In reviewing your misconduct, the Board found that you exhibited a complete disregard for military authority and regulations. Further, the Board considered that you committed multiple assaults on other Sailors that could have easily resulted in serious injury. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a

correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

3/9/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]